

## Message Text

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ACTION ARA-10

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FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC 2891

C O N F I D E N T I A L MANAGUA 1738

E.O. 11652: GDS

TAGS: SHUM, PINT, US, NU

SUBJECT: P.J. CHAMORRO TRAVEL RESTRICTION

REF: (A) STATE 83402, (B) 1974 MANAGUA 3919 (C) 1974 MANAGUA 4192, (D) 1974 MANAGUA 4465, (E) 1976 MANAGUA 0699, (F) 1976 MANAGUA 0745, (G) 1976 MANAGUA 2418, (H) 1976 MANAGUA 2763, (I) 1976 MANAGUA 5885, (J) MANAGUA 1144, (K) MANAGUA A-25.

SUMMARY: CHAMORRO HAS BEEN PRIMARY TARGET OF INJURY AND CALUMNY LAW ADOPTED IN FALL OF 1973. HE WAS CITED UNDER NEW LAW IN 1974 BUT CLEARED (SEE 1974 REFTELS). SECOND CASE WAS FILED BY HUECK IN OCTOBER 1975. BAN ON HIS LEAVING COUNTRY WAS IMPOSED IN DECEMBER 1975 (AT REQUEST OF HUECK) BY JUDGE HEARING THE CASE. THE RIGHT OF JUDGE TO IMPOSE THIS BAN WAS UPHELD BY SUPREME COURT IN JULY 1976 BASED UPON PRECEDENT. END SUMMARY

1. REFTELS PROVIDE CHRONOLOGICAL DEVELOPMENTS OF FIRST AND SECOND INJURY AND CALUMNY CASES FILED AGAINST CHAMORRO. EMB IS UNAWARE OF OTHER SIMILAR CASES, BUT, AS EMB HAS REPORTED, CHAMORRO WAS MOST LIKELY TARGET OF AUTHORS OF 1973 LAW, IN PART BECAUSE OF HIS BEING LEADING OPPOSITIONIST, AND IN PART BECAUSE HIS OPPOSITIONISM WAS OFTEN QUITE VICIOUS AND AT TIMES IRRESPONSIBLE.

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2. THE PROSCRIPTION ON TRAVEL IS NOT A PART OF THE ARTICLES OF THE PENAL CODE ON INJURY AND CALUMNY, AN ARGUMENT ADVANCED BY LAWYERS FOR CHAMORRO IN THEIR APPEAL. HIS LAWYERS ALSO ARGUED THAT LIMITATION ON TRAVEL WAS FORM OF IMPRISONMENT AND, THEREFORE, A MORE SERIOUS PUNISHMENT THAN ENVISAGED BY THE LAW UNDER WHICH HE IS CHARGED, WHICH ONLY PROVIDES FOR PAYMENT OF A MONETARY PENALTY.

3. SUPREME COURT RULED THERE WAS PRECEDENT ON BASIS OF PREVIOUS DECISIONS BY THAT BODY FOR A JUDICIAL AUTHORITY TO REQUEST WITH LEGAL BASIS DENIAL OF PERMISSION FOR NICARAGUAN CITIZEN TO LEAVE COUNTRY WHILE CRIMINAL CASE IS PENDING AND PERSON IS NOT SUBJECT TO DETENTION. ARGUMENT RE TRAVEL BAN BEING EQUIVALENT TO IMPRISONMENT WAS REJECTED ON BASIS IT IS NORMAL STATUS TO REMAIN WITHIN COUNTRY AND EXTRAORDINARY TO TRAVEL OUTSIDE COUNTRY. LOGIC OF DECISION IS THAT CHAMORRO MUST BE READY AT ALL TIMES WHILE CASE IS PENDING TO BE SUMMONED TO PRESENT FURTHER ARGUMENTATION IN THE CASE AND FOREIGN TRAVEL COULD RESULT IN PROLONGATION OF CASE WHICH WOULD BE UNFAIR TO PLAINTIFF, I.E., HUECK.

4. THE CASE IS NOW BEFORE SUPREME COURT AGAIN ON APPEAL OF THE FINAL DECISION HANDED DOWN IN DECEMBER 1976. THE PROCEEDINGS HAVE BEEN DRAWN OUT, WHICH IN LARGE MEASURE APPEARS TO BE DUE TO FACT NEITHER CHAMORRO NOR HUECK WANTS IT SPEEDED UP: CHAMORRO BECAUSE IT WOULD THEN OPEN UP A CIVIL DAMAGES CASE BY HUECK, AND HUECK BECAUSE HE PREFERS TO HAVE THE CASE AS LEVERAGE OVER CHAMORRO.

5. CHAMORRO FAMILY AS OWNERS OF LA PRENSA PETITIONED PRESIDENT SOMOZA IN MARCH TO INTERCEDE WITH COURT BY EXERCISING HIS EXECUTIVE AUTHORITY TO RIGHT INJUSTICE BEING DONE BY COURT. SOMOZA'S REACTION WAS CHAMORRO, WHO AS LAWYER, SHOULD KNOW BETTER, HAD NOT FOLLOWED PROPER PROCEDURES FOR APPEALING FOR REVIEW OF INJUSTICE.

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6. EMB BELIEVES ONLY INFORMATION WHICH SHOULD BE FURNISHED TO REP. KOCH IS: (1) CHAMORRO IS INVOLVED IN CRIMINAL CASE UNDER NICARAGUAN INJURY AND CALUMNY LAW, WHICH ALTHOUGH DECIDED AGAINST CHAMORRO IN DECEMBER 1976 IS BEFORE SUPREME COURT ON APPEAL BY CHAMORRO; (2) TRAVEL RESTRICTION IMPOSED DECEMBER 1975 BY LOWER COURT FOR DURATION OF PROCEEDINGS WAS EARLIER APPEALED TO SUPREME COURT AND UPHELD IN JULY 1976 AS LEGAL JUDICIAL RESTRAINT BASED ON PRECEDENT.  
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## Message Attributes

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